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[Nimetz v. CDI Power Systems Group, Inc.](#), 94-ERA-43 (ALJ Nov. 29, 1995)
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Date: November 29, 1995

In the Matter of:

ROBERT NIMETZ,
Complainant

v.

CDI POWER SYSTEMS GROUP, INC.

and

TENNESSEE VALLEY AUTHORITY
Respondents.

Case Nos. 94-ERA-43
94-ERA-44

**RECOMMENDED ORDER APPROVING SETTLEMENT AND DISMISSING
COMPLAINT**

This proceeding arises under the employee protection provisions of the Energy Reorganization Act, 42 U.S.C. §5851 (ERA). The parties have entered into a settlement agreement, attached hereto and incorporated by reference herein. I have reviewed the proposed settlement, and, with the limitation noted below, I find that it is fair, adequate, and reasonable and recommend its approval.

At paragraph 5 of the settlement, the parties have included a release from claims arising under authorities other than the ERA. The Department of Labor's jurisdiction here extends only to Mr. Nimetz's ERA claim and to remedies for violations of the ERA. Review is therefore confined to a determination of whether the terms of the agreement within the scope of the Secretary's authority are fair, adequate, and reasonable. To the extent that such other provisions regarding release of liability constitute a private agreement among the parties, they would have to be enforced contractually under state law in the appropriate court, rather than by the Department of Labor. See *Brodeur v. Westinghouse Hanford Co.*, 92-SWD-3 (Sec'y Oct. 16, 1992); *Poulos v. Ambassador Fuel Oil Co., Inc.*, 86-CAA-1 (Sec'y Nov. 2, 1987).

RECOMMENDED ORDER

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The settlement in this case is hereby approved, with the exception noted above, and the case is dismissed with prejudice.

EDITH BARNETT
Administrative Law judge

NOTICE: This Recommended Decision and Order and the administrative file in this matter will be forwarded for review by the Secretary of Labor to the Office of Administrative Appeals, U.S. Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Ave., N.W., Washington, D.C. 20210. The Office of Administrative Appeals has the responsibility to advise and assist the Secretary in the preparation and issuance of final decisions. See 55 Fed. Reg. 13250 (1990).